



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

JUN 18 2014

Ref: 8EPR-EP

Dr. Andrew Todd, Chair  
Water Quality Control Commission  
4300 Cherry Creek Drive South  
Denver, CO 80222-1530

Re: WQS for Fountain Creek Segment 11

Dear Dr. Todd:

The U.S. Environmental Protection Agency, Region 8 has completed its review of the water quality standards revisions adopted by Colorado's Water Quality Control Commission (WQCC or the Commission) for Fountain Creek Segment 11 (Regulation #32). The revisions were adopted March 11, 2014, and submitted to the EPA Region 8 for review with a letter dated March 24, 2014. The submission letter included an Opinion of the Attorney General certifying that the standards were duly adopted pursuant to state law. Receipt of the revised standards on March 27, 2014, initiated the EPA's review pursuant to Clean Water Act (CWA) § 303(c). The EPA has completed its review of the revisions, and this letter is to notify you of our action.

### **CLEAN WATER ACT REVIEW REQUIREMENTS**

The CWA § 303(c)(2) requires states and authorized Indian tribes to submit new and revised water quality standards to the EPA for review. The EPA is required to review and approve or disapprove the revised standards pursuant to CWA § 303(c)(3). The Region's goal has been, and will continue to be, to work closely and collaboratively with states and authorized tribes throughout the standards revision process so that submitted revisions can be approved by the EPA.

### **TODAY'S ACTION**

We are pleased to inform you that today the Region is approving, without condition, the water quality standards revisions for Fountain Creek Segment 11. The adopted revisions and basis for the EPA's action are summarized below.

#### Adopted Revisions

The adopted revisions include two changes to the water quality standards for Fountain Creek Segment 11. The first revision was to add a Use Protected designation. The second revision was to clarify the description of the segment. The clarified segment description is as follows:

“AFA Non-Potable Reservoir #1 and all lakes and reservoirs tributary to Fountain Creek, from a point immediately above the confluence with Monument Creek to the confluence with the Arkansas River, excluding lakes and reservoirs within the

boundaries of the National Forest and other lakes on Air Force Academy lands and the specific listings in segments 7a and 7b.”

### Basis for the EPA's Action

#### *Use Protected Designation*

Based on our review of the supporting information, the EPA has concluded that the new Use Protected designation is consistent with the eligibility criteria described in Colorado's antidegradation rule at Section 31.8(2)(b) of the Basic Standards and Methodologies for Surface Waters. Colorado's antidegradation rule has been approved by the EPA on multiple occasions (most recently, October 17, 2005). The EPA likewise has concluded that the revision is consistent with the federal antidegradation requirements at 40 CFR § 131.12. Accordingly, the revision is approved.

#### *Segment Description*

The EPA has concluded that the changes to the segment description merely clarify which waters are included within, and which waters are excluded from, Fountain Creek Segment 11. For example, instead of excluding Non-Potable Reservoir #1 from the list of excluded waters, the revised description now affirmatively states that Non-Potable Reservoir #1 is included within the segment. The clarification is approved.

### **ESA CONSULTATION**

Today's action includes a finding that the EPA's approval of the water quality standards revisions will have no effect on listed or proposed endangered or threatened species, or is otherwise not subject to Endangered Species Act consultation. As a result, for the revisions addressed today, no consultation with the U.S. Fish and Wildlife Service is required.

### **CONCLUSION**

The revisions to WQS for Fountain Creek Segment 11 are approved. The EPA Region 8 thanks the Commission and the Division for their efforts to review and revise Colorado water quality standards. Questions regarding this letter may be directed to David Moon, the Region's water quality standards coordinator, at 303-312-6833.

Sincerely,



Martin Hestmark  
Assistant Regional Administrator  
Office of Ecosystems Protection  
and Remediation



Printed on Recycled Paper